



## MEMORANDUM

**TO:** Superintendent and Alternative Education Contact

**FROM:** Sue Foxx, Specialist  
Division of Student Learning Choices

**DATE:** September 5, 2008

**SUBJECT:** Joint Alternative Education Programs

Alternative education legislation in IC 20-30-8-5 indicates that the governing body of a school corporation may elect to establish an alternative program on its own or participate in an area alternative program through a joint program under IC 20-26-10. Multiple corporations may also enter into an agreement under the Interlocal Cooperation Act (IC 36-1-7). If your alternative education school or program serves multiple school corporations, please ensure that you have either a Joint Service and Supply Agreement or an Agreement under the Interlocal Cooperation Act in place to demonstrate compliance with the law.

As of SY 2008-2009, joint programs will be expected to share their Joint or Interlocal Agreements as part of the onsite monitoring process. All new programs serving multiple corporations must include the Joint Service and Supply or Interlocal Agreement in the New Program Application.

### **Types of Agreements**

It is important to distinguish between a Joint Service and Supply Agreement and an Agreement under the Interlocal Cooperation Act. Both types of agreements are acceptable for establishing alternative education programs that serve multiple school corporations.

### **Joint Service and Supply Agreement**

Per Kevin McDowell, General Counsel for the Indiana Department of Education, a Joint Service and Supply Agreement is “conceptually a partnership agreement. One participating school corporation is designated as the administrative entity. The administrative entity is the one that employs personnel, maintains the financial records, and employs the director of the venture. There is no requirement that such an Agreement be reviewed or approved at the state level. Such an Agreement is restricted to school corporations and cannot include other governmental entities. This type of Agreement is restricted in its scope to its expressed purposes.”

### **Agreement under the Interlocal Cooperation Act**

An Agreement under the Interlocal Cooperation Act “creates a separate corporate entity. The participating [corporations] can exercise considerably more powers than the participating school corporations under the Joint Service and Supply Agreement. As a separate corporate entity, the Interlocal Agreement can perform the functions of the administrative school corporation under the Joint Service and Supply Agreement. The limitations include the fact that this is a separate corporate entity that would likely require approval by a State agency or official and, in some cases, the Attorney General. The Agreement also has to be recorded with the county recorder. An Interlocal entity is also subject to audit by the State Board of Accounts, whereas a Joint Service and Supply Agreement is not (but its constituent members are). An Interlocal Agreement must also address the disposition of property should the corporate entity be dissolved.

A Joint Service and Supply Agreement is more flexible in the addition or subtraction of participating school corporations. An Interlocal Agreement will typically include provisions for membership as well as notice provisions for one who wishes to withdraw. Adding or subtracting members of an Interlocal requires more of an accounting than under a Joint Service and Supply Agreement.”

## **Legislation**

The legislation related to Joint Service and Supply Agreements is found at IC 20-26-10 *et seq.* The Interlocal Cooperation Act can be found at IC 36-1-7 *et seq.* For further reference, a comparison chart comparing Agreements under the Interlocal Cooperation Act and Joint Service and Supply Agreements is posted at <http://www.doe.state.in.us/alted/altedmemolinkpg.html>.